Supreme Court, U.S.
FILED
SEP 11 1986
JOSEPH F. SPANIOL, JR.
CLERK

NO. 85-2135

IN THE SUPREME COURT OF THE UNITED STATES
OCTOBER TERM, 1986

IN THE MATTER OF
LAVOYD WAYNE HARDIN,
a/k/a "BILL HARDIN" DEBTOR,

LAVOYD WAYNE HARDIN,
a/k/a "BILL HARDIN",

PETITIONER.

VERSUS

GILBERT & COLVIN,

RESPONDENT.

ON WRIT OF CERTIORARI TO THE UNITED
STATES COURT OF APPEALS FOR THE
FIFTH CIRCUIT

EXHIBITS DESIGNATED FOR INCLUSION IN RESPONDENT'S BRIEF IN OPPOSITION

JOSEPH W. COLVIN
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ATTORNEYS FOR RESPONDENT,
GILBERT & COLVIN and
CLIFFORD F. McMASTER, TRUSTEE

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* The following are reproductions of the originals.

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

NO. 84-1037
Summary Calendar

IN THE MATTER OF LAVOID WAYNE HARDIN
A/K/A "BILL HARDIN", DEBTOR.

JOAN MURLE HARDIN,

Plaintiff-Appellee,

VERSUS

LAVOID WAYNE HARDIN
A/K/A "BILL HARDIN",

Defendant-Appellant.

Appeal from the United States District court for the Northern District of Texas

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(August 22, 1984)

Before JOHNSON, GEE and DAVIS, Circuit Judges.

PER CURIAM:

The opinion of the district court in this case is AFFIRMED. See Local Rule 47.6.

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 84-1250

IN THE MATTER OF: LAVOYD WAYNE "BILL" HARDIN
Debtor,
CLIFFORD F. MCMASTER,
Trustee
Plaintiff-Appellee,

versus

LAVOYD WAYNE "BILL" HARDIN and J. A. HARDIN,
Defendants-Appellants.

Appeal from the United States District Court
for the Northern District of Texas

CLERK'S OFFICE:

Pursuant to Local Rule 42.3, the appeal was duly entered dismissed for want of prosecution for failure of APPELLANTS TO FILE THEIR BRIEFS within the time fixed by the rules, this 24th day of May, 1984.

GILBERT F. GANUCHEAU
Clerk of the United States
Court of Appeals for the
Fifth Circuit

By:_____
Deputy Clerk
FOR THE COURT - BY DIRECTION

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 84-1396
Summary Calendar

IN THE MATTER OF: LAVOYD WAYNE "BILL" HARDIN,
Debtor.

LAVOYD WAYNE "BILL" HARDIN,
Plaintiff-Appellant,

versus

CLIFFORD F. McMASTER,
Defendant-Appellee.

Appeal from the United States District Court for the Northern District of Texas
(September 26, 1984)

Before CLARK, Chief Judge, RUBIN and GARWOOD, Circuit Judges.

PER CURIAM:

Appellant Lavoyd Wayne "Bill" Hardin ("Bill Hardin") appeals the district court's order of April 24, 1984 affirming the bankruptcy court's order of March 9, 1984 which, on application of Clifford F. McMaster, Trustee of the Lavoyd Wayne Hardin

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*Local Rule 47.5 provides: "The publication of opinions that have of precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the Court has determined that this opinion should not be published.

Bankruptcy Estate (the "Trustee"), did the following: (1) declared null and void the August 24, 1983 assignment by Bill Hardin to J. A. Hardin of Bill Hardin's interest, as purchaser under a September 20, 1955 Texas Veteran's Land Board contract, in a certain 154.3-acre tract of land and the consequent January 6, 1984 deed of such land from the Veteran's Land Board to J. A. Hardin as assignee of the purchaser in such contract; and (2) ordered J. A. Hardin to deed such 154.3-acre tract to the Trustee.

On October 31, 1980 Bill Hardin filed for bankruptcy under Chapter 13. One of the assets scheduled by Bill Hardin was his interest, as purchaser under the referenced Veteran's Land Board contract, in the mentioned 154.3-acre

tract. On June 16, 1982 the bankruptcy court converted the proceeding to one under Chapter 7. On October 13, 1982 the bankruptcy court denied Bill Hardin's motion to convert the proceeding to one under Chapter 11, and on October 27, 1982 the bankruptcy court ruled that Bill Hardin could not claim the 154.3 acres as his homestead. Bill Hardin appealed the referenced October 13, 1982 and October 27, 1982 bankruptcy court orders to the district court, those two proceedings were consolidated before the district court, and on November 30, 1983 the district court in all things affirmed these orders of the bankruptcy court. Bill Hardin appealed to this Court, which affirmed without opinion on August 22, 1984. Joan Murle Hardin v. Lavoyd Wayne Hardin, No. 84-1037.

As noted, Bill Hardin conveyed his interest in the 154.3-acre tract to J. A. Hardin on August 24, 1983, and on January 6, 1984 the Veteran's Land Board deeded the property to J. A. Hardin. After notice and hearing, the bankruptcy court on March 9, 1984 declared void both the August 24, 1983 assignment to J. A. Hardin and the January 6, 1984 deed to him, and likewise ordered J. A. Hardin to convey the 154.3 acres to the Trustee.

According to appellee, the district court on March 9, 1984 ordered J. A. Hardin to execute the deed or appear at a March 20, 1984 hearing to show cause why he should not be held in contempt; appellee also advises that Bill Hardin attempted to appeal the March 9, 1984 district court show cause order to this Court, where the appeal was docketed as

our No. 84-1250 but was dismissed May 24, 1984 for failure of appellants to file briefs.

Appellee, the Trustee, likewise states that on March 14, 1984 J. A. Hardin conveyed the 154.3 acres to the Trustee. Appellant essentially confirms this in his brief. The Trustee likewise states that the Veteran's Land Board has since March 9, 1984 given the Trustee a deed to the 154.3 acres and that the Trustee sold such land pursuant to court order on April 5, 1984.

On April 24, 1984 the district court, on appellant's appeal, affirmed the bankruptcy court's March 9, 1984 order.

Appellant's only point on appeal is that the 154.3 acres was his homestead and that the proceedings were not properly under Chapter 7. Neither contention

appears to have any merit, and both were necessarily resolved against appellant in our above-referenced cause No. 84-1037. Under 11 U.S.C. §§ 521(3), 541(a)(1), and 549, the bankruptcy court's March 9, 1984 order, and the district court's April 24, 1984 order affirming it, would therefore appear to be proper. However, in any event, particularly in light of this Court's affirmance in No. 84-1037 and dismissal of appeal in No. 84-1250, the appeal must be dismissed because appellant, having transferred his interest to J. A. Hardin, has no standing, and subsequent to the complained of March 9, 1984 order, J. A. Hardin has deeded the property to the Trustee, thus mooting the controversy. Hence, appellee's motion to dismiss the appeal should be granted.

Therefore, the appeal is DISMISSED.

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 84-1614
Summary Calendar

In the Matter of: LAVOYD WAYNE "BILL" HARDIN, Debtor

LAVOYD WAYNE "BILL" HARDIN,

Plaintiff-Appellant,

versus

CLIFFORD L. McMASTER, Trustee,

Defendant-Appellee.

Appeal from the United States District Court for the Northern District of Texas

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(December 20, 1984)

Before WILLIAMS, JOLLY, and HILL, Circuit Judges.

PER CURIAM.*

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* Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expenses on the public and burdens on the legal profession." Pursuant to that Rule, the court has determined that this opinion should not be published.

In this appeal appellant, Lavoyd Wayne "Bill" Hardin, is challenging the distribution of proceeds from the sale of 154 acres of land by the trustee in bankruptcy. Particular objection is made to recognition of his divorced wife's secured claim of $52,048.99.

At the time appellant and his wife divorced, he purchase his wife's community interest in the 154 acres. After one year's payment on the note, no further payments were made. His former wife brought suit in the courts of Texas to accelerate the note and obtained a judgment in the Supreme Court of the State of Texas ordering a sheriff's sale. Because of the bankruptcy, the sale did not take place until the May 1984, sale by the trustee in bankruptcy.

Appellant without any supporting information charges bias and prejudice on

the part of the federal court, and undertakes to challenge the validity of the Texas Supreme Court judgment obtained by his former wife recognizing the lien on the property and accelerating the note. Hardin v. Hardin, 597 S.W.2d 347 (Tex. 1980). Appellant cannot obtain review of that decision in this Court. No colorable constitutional due process claims are stated.

Finally, appellant's claim that he did not receive proper notice under the Bankruptcy Code for the hearing in which the disbursement satisfying the secured claim of his former wife was ordered is negated by the record. Adequate attempts to serve him under the Code were made, and his former attorney was present at the hearing.

The order of this district court states, "The Court is well aware of the

history of appellant's bankruptcy proceedings and his intransigent behavior, which has resulted in numerous delays in several previous appeals to this Court." The accuracy of this statement is well supported by the record in this case. The appeal is frivolous in every respect. The order of the district court upholding the order of the bankruptcy judge providing for disbursements of the proceeds of the sale of the 154 acres of land under Chapter VII of the Bankruptcy Code is affirmed.

AFFIRMED.

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 84-1615
Summary Calendar

In the Matter of: LAVOYD WAYNE "BILL" HARDIN, Debtor.

LAVOYD WAYNE "BILL" HARDIN,

Plaintiff-Appellant,

versus

JAMES ROBERT ARTHUR,

Defendant-Appellee.

Appeal from the United States District Court for the Northern District of Texas

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(December 20, 1984)

Before WILLIAMS, JOLLY, and HILL, Circuit Judges.

PER CURIAM:*

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*Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the court has determined that this opinion should not be published.

Appellant, Lavoyd Wayne "Bill" Hardin brought this appeal from an order entered by the bankruptcy court enjoining him from "coming upon, trespassing upon, or otherwise exercising control" over 154 acres of land which he had owned and which had been sold in a bankruptcy sale. Appellant had appealed to this Court for the conversion of his case from Chapter XIII to Chapter VII of the Bankruptcy Code, and he also claims that the bankruptcy court abused its discretion by moving ahead to trial in this mater because of the appeal to the Fifth Circuit of the validity of the trustee's appointment and subsequent conveyance of the real estate. The nature of the appeals to this Court is not clear from the record. Without the slightest informational support, appellant also claims

that he has been "framed", that the trustee in bankruptcy had "lied", and that the bankruptcy court was "harassing" appellant by going ahead with the hearing in the case.

The simple facts are that in the bankruptcy proceeding appellant could not claim these 154 acres as his homestead because his home in DeLeon was his homestead. After the sale appellant entered on the property and planted a crop of alfalfa, and harassed the purchaser of the property who had obtained it in the court-ordered sale. He further admitted to cutting the owner's lock on the gate in order to gain access to the property. Nothing in the record indicates that any stay of the prior decisions of the bankruptcy court had been issued.

The jurisdiction and proper orders of a federal court must be obeyed. There is nothing in this record to indicate that the bankruptcy court has acted improperly at any time throughout this proceeding, that the federal district court has acted erroneously or with an abuse of discretion. Appellant became bankrupt. The proper sale of assets which he owed was carried out. Claims of harassment and bad faith are unsupported in the record. The property in question having been correctly sold by the trustee in bankruptcy, the property no longer belongs to the appellant. Appellant's attempts to exercise continuing claim of ownership and control over the property are an harassment to the owner. The district court was properly within its jurisdiction in enjoining these activi-

ties which were in defiance of the decisions of the court. The district court properly exercised its discretion in affirming. In turn, we affirm.

AFFIRMED.

IN THE UNITED STATES COURT OF APPEALS

FOR THE FIFTH CIRCUIT

No. 84-1686
Summary Calendar

LAVOYD WAYNE HARDIN, a/k/a
BILL HARIN, (sic) Debtor

LAVOYD WAYNE HARDIN, a/k/a
BILL HARDIN,

Plaintiff-Appellant,

versus

GILBERT & COLVIN,

Defendant-Appellee.

Appeal from the United States District Court for the Northern District of Texas

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(February 24, 1986)

Before REAVLEY, HIGGINBOTHAM, and HILL, Circuit Judges.

PER CURIAM:*

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*Local Rule 47.5 provides: "The publication of opinions that have no preceden-

tial value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the court has determined that this opinion should not be published.

This is the sixth time that appellant, Lavoyd Wayne "Bill" Hardin has perfected an appeal in a matter relating to his bankruptcy estate. See Hardin v. Hardin, No. 84-1250 (5th Cir. May 24, 1984) (dismissed for failure to file briefs); Hardin v. Hardin, No. 84-1037 (5th Cir. Aug. 22, 1984)(per curiam); Hardin v. McMaster, No. 84-1396 (5th Cir. Sept. 26, 1984) (per curiam); Hardin v. McMaster, No. 84-1614 (5th Cir. Dec. 20, 1984) (per curiam); Hardin v. Arthur, No. 84-1615 (5th Cir. Dec. 20, 1984) (per curiam). In the instant appeal Hardin appeals from an order by

the bankruptcy court granting an interim award to the Trustee for attorney's fees, commission and expenses. Hardin's challenge to this award is based on allegations that the trustee, his attorneys, and other have deprived him of "his constitutional right, his life's sweat and labor and ever asset that he has accumulated." This court in prior holdings has determined that these allegations are without legal merit. Finding Hardin's claim to have no conceivable foundation in fact or law we dismiss the appeal. See Windsor v. Pan American Airways, 744 F.2d 1187 (5th Cir. 1984).

Appeal DISMISSED.

IN THE UNITED STATES COURT OF APPEALS

FOR THE FIFTH CIRCUIT

CA4-85-342-E

No. 85-1726
Summary Calendar

LAVOYD WAYNE HARDIN,
a/k/a BILL HARDIN,

Plaintiff-Appellant,

versus

GILBERT & COLVIN,

Defendant-Appellee.

Appeal from the United States District Court for the Northern District of Texas

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(March 17, 1986)

Before RUBIN, JOHNSON, and JONES, Circuit Judges.

PER CURIAM:

The judgment of the district court is AFFIRMED. See Local Rule 47.6.

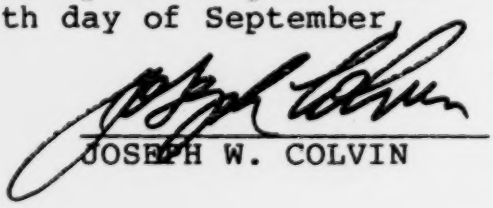
Appellant has previously submitted numerous frivolous appeals to this Court. While this Court will not exercise its discretion to impose sanctions on this appeal, further abuse of the appellate process will not be tolerated. Therefore, appellee's motion for sanctions is DENIED. See Fed. R. App. P. 38.

Costs on appeal are taxed against plaintiff-appellant.

ISSUED AS MANDATE: APR 10, 1986

CERTIFICATE OF SERVICE

I hereby certify that two copies of the foregoing have been served on all counsel of record, by mailing sets of same, on this 11th day of September, 1986.



JOSEPH W. COLVIN